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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

THE UNITED STATES PATENT AND TRADEMARK OFFICE
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PIONEER KABUSHIKI KAISHA d/b/a)
PIONEER CORPORATION,)
)
Opposer,)
)
v.)
NISSEI SANGYO AMERICA, LTD. n/k/a)
HITACHI HIGH TECHNOLOGIES AMERICA,)
INC.,)
Applicant.)
_____)

Opposition No. 125,458

Mark: SUPERSCAN ELITE

Serial No.: 76/208,230

Published: March 19, 2002



11-14-2002

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #77

RESPONSE TO OPPOSER'S MOTION TO COMPE

On August 7, 2002, Opposer propounded to Applicant written discovery requests consisting of 59 interrogatories and 17 separate document requests. On September 11, 2002, Applicant responded to the interrogatories. With respect to certain interrogatories (Nos. 40, 41, 42, 43, and 49), Applicant objected to the request. These interrogatories requested information about the use of the mark SUPERSCAN ELITE in connection with computer monitors and the advertising and sales relating to such monitors. These interrogatories were prompted by the fact that Applicant owns a prior registration for the mark SUPERSCAN ELITE covering computer monitors. (Reg. No. 1,888,264). Applicant objected to these interrogatories on the ground that computer monitors are not covered by the description of goods in the application at issue in this Opposition.

Applicant also objected to certain document requests (Nos. 14, 15, 16, and 17). These requests sought documents relating to use of the mark SUPERSCAN ELITE on computer monitors, as well as sales and advertising documents relating to the computer monitors. Again, Applicant objected to these requests on the grounds that computer monitors are not covered by the description of the goods in the application at issued in this Opposition.

On October 3, 2002, Opposer sent a letter to Applicant's counsel demanding answers to these interrogatories and production of documents. On October 28, 2002,

Applicant's counsel sent a letter to Opposer's counsel responding to that letter. (Copy of Applicant's letter attached). In Applicant's letter of October 28, 2002, counsel states that "... we will provide to Pioneer all requested materials and information that Hitachi High Technologies has in its possession related to the use of the mark SUPERSCAN ELITE for computer monitors." The letter also noted: "However, please be advised that some of the requested information may not be available to Hitachi High Technologies due to a recent corporate restructuring."

On that same day, October 28, 2002, probably prior to receiving Applicant's letter, Opposer filed the pending Motion to Compel. Applicant received service of the Motion to Compel on October 31, 2002.

Applicant respectfully suggests that the Motion to Compel is moot. In its October 28, 2002 letter, Applicant indicates that it will provide all the requested materials and information in its possession. However, after investigation, Applicant states that it has none of the requested information or documents. On April 1, 2002, Applicant divested the entire business operations relating to computer monitors to a separate and independent entity, Hitachi America, Ltd. That divestiture of the entire business operations included the personnel and all of the records of the prior business relating to computer monitors. Accordingly Applicant, now known as Hitachi High Technologies America, Inc., has none of the requested information or documentation.

For the foregoing reasons, Opposer's Motion to Compel is moot and should be denied.

Respectfully submitted,

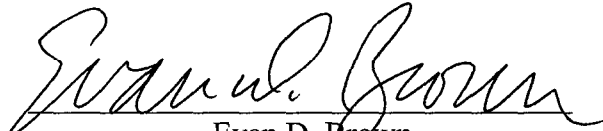
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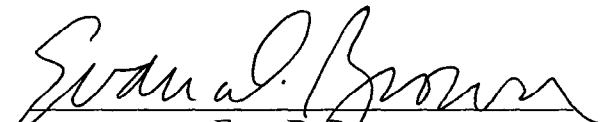
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Evan D. Brown

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify that the foregoing RESPONSE TO OPPOSER'S MOTION TO COMPEL is being deposited with the United States Postal Service, first class postage prepaid, in an envelope addressed to Mr. Robert J. Skousen, SKOUSEN & SKOUSEN, P.C., 12400 Wilshire Boulevard, Suite 900, Los Angeles, California, 90025-1060, on **November 14, 2002.**


Evan D. Brown